

REMARKS

The present amendment is submitted as a response to an office action issued January 24, 2008. The application consists of claims 1-5 and 7-15, of which claim 1 is the only independent claim. Claim 6 is cancelled herewith, claim 15 is new. Claims 1, 3-5 and 7-13 are amended herewith as detailed below.

Drawings

The drawings stand objected since cross-section Figure 4 fails to include hatching. Applicants have amended Fig. 4 to correspond to Fig. 3 and to remove structure that is unnecessary to be depicted in the Figure. Fig. 4 has been amended to be a partially sectioned view of structure 106, making an incision at vibrator 350. As can be seen in the sectioned part, vibrator 350 is partially obscured by post 130. Applicants have added reference numeral to strut 244 for clarity.

Specification

Applicant has amended the abstract to be in narrative form as suggested by the Examiner.

Claims

The Examiner has indicated on page 2 of the office action that claims 5 and 6 were reversed in the preliminary amendment. Applicants respectfully point out that the amendment of September 2005 was based on the claims annexed to the International Preliminary Examination Report which recited claims 5 and 6 in the same order as in the preliminary amendment.

Claim objections

Claims 6, 8 and 9 stand objected because of typographical errors in the claims. The typographical errors have been corrected to overcome the objection.

Claim rejections – 35 USC 112

Claims 1-14 stand rejected under 35 USC 112, second paragraph, as lacking sufficient antecedent basis in the claims. The Examiner has indicated exemplary rejections and requested the applicant to correct all outstanding 35 USC 112 second paragraph issues.

Applicant has reviewed the claims and amended claims 1, 3-5 and 7-13 to correct antecedent problems in the claims. Claim 6 is cancelled. In addition, applicant has made some cosmetic changes in the claims which are not required for patentability.

Claim rejections – 35 USC 102 and 103

Claims 1, 3, 8, 10 and 14 stand rejected under 35 U.S.C. 102(b) as anticipated by Peterson (US 2,231,219).

Claims 1-4, 7, 8, 10 and 14 stand rejected under 35 U.S.C. 102(b) as anticipated by Johnson (US 3,093,724).

Claim 2 stands rejected under 35 U.S.C. 103(a) as obvious over Peterson (US 2,231,219).

Claims 4-7 stand rejected under 35 U.S.C. 103(a) as obvious over Peterson in view of Sparagi et al (US 3,233,322).

Claims 4-7 stand rejected under 35 U.S.C. 103(a) as obvious over Peterson in view of Johnson (US 3,093,724).

Claims 9 and 11 stand rejected under 35 U.S.C. 103(a) as obvious over Peterson in view of Hashimoto (US 5,064,993).

Claims 12 and 13 stand rejected under 35 U.S.C. 103(a) as obvious over Peterson in view of Parker et al (US 6,481,104).

Claim 1

Claim 1 is amended and now recites: " b) a heat generating elongate element situated in the opening, positioned with respect to the opening *such that, in operation, the heat generating elongate element can touch the skin,*" The rejections over claim 1 are moot in view of amended claim 1 since none of the prior art cited over claim 1 teach this feature. In fact, the prior art teaches against allowing the heat generating element to touch the skin in order to prevent burning of the skin.

Moreover, the prior art fails to teach at least one additional feature of claim 1, namely: "wherein each of the skin depressing elements has a long axis pointed generally toward the center of the opening."

Peterson

Peterson describes a device for removing undesirable hair by a singeing action. The device includes a wire within a tubular member. However, the wire in Peterson is specifically positioned so as to avoid touching the skin, see col. 2, lines 24-26 "...so that the wire 3 *will not touch the skin* but will provide for severing hairs in close proximity to the skin." (emphasis added). Clearly Peterson teaches against a device having the possibility of the heat generating elongate element touching the skin.

The Examiner further indicated that the skin depressing elements of claim 1 are shown in Peterson as termination ends of tubular guard member 1 creating slot 5 and that it is shown on Figs. 1-3 that their long axes are pointed generally towards the center of the opening.

Applicants have carefully reviewed Figs. 1-3 and the description thereof and failed to find any reference for the ends of tubular member 1 to have long axes pointed generally towards the opening. It is clear from the figures that the ends of member 1 are cut straight and that their long axes do not point to the center of slot 5, rather they point to the circular ends of tubular member 1.

Johnson

Johnson describes a comb type device having two sets of teeth, the teeth of one set being shorter than those of the other set, in which the longer tines of the comb may touch the scalp. The sets of teeth are placed apart by a longitudinal slot in which a wire blade is positioned. In order to avoid burning of the skin, the device of Johnson has one set of teeth longer than the other set, so as to ensure that the longer set of teeth touches the skin and the wire blade which is positioned in the opening does not contact the skin. The structure in Johnson is, in fact designed to avoid the blade touching the skin during use.

While Johnson does not describe in detail how the device is used, except to say that it is for singeing a beard, for this use, the tip of the long teeth are clearly what is meant to be placed against the skin, since only in this way can the beard be singed and not cut off. It is thus clear that the opening of the device in Johnson as defined in claim 1 is not meant to be placed against the skin so that the heated element will not contact the skin during use. In effect Johnson teaches against the present claim 1.

In addition, according to the Examiner, the at least two rows of skin depressing elements of claim 1 are shown in Johnson as two sets of teeth 1 and 2. However, the sets of teeth do not comply with the limitation of claim 1: "wherein each of the skin depressing elements has a long axis pointed generally toward the center of the opening". Teeth 1 and 2 of Johnson are made narrower towards their ends, however, they do not have a long axis pointed generally toward the center of the opening as required by claim 1. In fact all of the teeth in both sets of teeth of Johnson are pointed in generally the same direction.

Accordingly, applicants submit that claim is patentable over the art on record. The dependent claims are patentable at least by virtue of their parent claims.

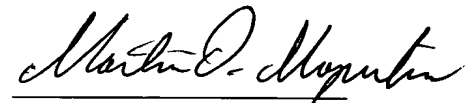
Dependent claims

The dependent claims are patentable at least by virtue of their patentable parent claims.

Conclusion

In view of the above amendment and arguments, applicants submit that the claims are patentable over the cited art. Notice thereof is respectfully awaited.

Respectfully submitted,
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A handwritten signature in cursive script, reading "Martin D. Moynihan".

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Enclosed:
Additional Claim Transmittal;
Letter to Chief Draftsman;
Annotated Marked-Up Figure 4;
Formal Drawings Transmittal; and
Replacement Drawings.